

STATE/LOCAL CONSISTENCY

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Preface:

In addressing issues that implicate state/local consistency concerns, it is essential that the state agencies involved (e.g., FPPC, Secretary of State) work closely with local agencies, officials, and staff.

Collaboration between state and local levels will make it easier to create more consistency, to identify subject areas for which maintaining state and local differences is desirable, to increase buy-in at all levels, and to facilitate implementation.

Issues:

1. Coordinate with Electronic Filing group proposal to create one statewide electronic filing location (e.g., at Secretary of State)

Recommendation: We concur with the recommendations of the Electronic Filing group regarding the establishment of a statewide electronic filing network. In addition, we urge that the process for establishing the network include working in partnership with local jurisdiction filing agencies/officials (ethics commissions, clerks, city attorneys, etc.) to obtain input, identify issues, share knowledge, and collaborate on problem-solving.

Rationale: The consolidated filing system recommended by the Electronic Filing group would include local as well as state filings. It would have the flexibility to accommodate local filing regardless of whether the jurisdictions have an in-house e-filing system, use a vendor e-filing system, or have no e-filing system. Public access would be provided through the state site and local jurisdiction portals. We believe the establishment of this consolidated statewide e-filing network will have many benefits, including simpler compliance, improved transparency and public disclosure, increased accountability, and, potentially, more state-local consistency by reducing pressure for local jurisdictions to create different disclosure requirements. At the same time, it respects local jurisdictions' authority to set their own campaign finance laws and accommodates existing local filing systems.

The State/Local Consistency group recognizes that continued paper filing will be a practical reality until an electronic filing system is implemented. We also note that paper filing is an important avenue for the public to obtain information, particularly at the local level, and should not be eliminated until there is a system in place that enables easy access to that information in other than paper form.

Working closely with local agencies, officials, and staff—including technical staff with expertise in electronic filing systems—is essential to the creation of a statewide electronic filing system that meets user needs for simplicity, efficiency, and ease of use.

2. Coordinate with Committee Classification group adjustments to local vs. state principal filing location issue.

Recommendation: Support electronic filing for all committees to establish one location for filing and similar reporting requirements for all types of committees. Also recommend alignment of filing deadlines (such as quarterly reporting), provided information currently available to the public in a statement or report is not reduced or eliminated.

Rationale:

- Electronic filing increases public disclosure of campaign finances, making issues regarding the different types of committees less significant.
- The public would be able to monitor activity easily.
- Similar reporting for all committees will simplify the reporting process and allow the focus to shift to other important issues such as advertisement disclosure.
- Alignment of deadlines would be helpful to filers.
- Consistency and uniformity are good, but public disclosure should prevail where consistency and uniformity may result in less disclosure than what is currently available to the public.

3. Coordinate with Campaign Finance Thresholds group possible two-tiered disclosure thresholds approach; should major jurisdictions' thresholds be tied to state thresholds? (e.g., LA, OC, SF, SD).

Recommendation:

A two-tiered approach to disclosure thresholds was considered. However, this group and the Campaign Finance Thresholds group agree that while having two tiers of thresholds for different sizes of local jurisdictions might have some benefits, the benefits would likely be outweighed by the complexity and inconsistency such an approach would create. Moreover, even large local jurisdictions will likely always have some “small” campaigns, and raising thresholds to the state level could result in some grassroots candidates or campaigns “slipping through the cracks.” Those local jurisdictions might eventually feel the need to enact ordinances to lower the thresholds again in order to capture information from those small campaigns, which would eliminate the simplification that might have been gained through a two-tiered local approach.

The Campaign Finance Thresholds group also considered the possibility of setting disclosure thresholds for committees at the state level based on the size of the campaign. This is something that might be considered at the local level, as well, but at either level it may be too difficult for candidates to keep track of when their thresholds increase.

The State/Local Consistency group concurs with the Campaign Finance Thresholds group’s recommendations to keep local late independent expenditure reporting at \$1,000 (state thresholds

would increase to \$2,500) and local late contribution reporting at \$1,000 (state thresholds would increase to \$2,500).

The State/Local Consistency group supports increasing the recipient committee qualification threshold and the independent expenditure committee qualification threshold from their current \$1,000 levels. However, while the Campaign Finance Thresholds group suggests that those qualification threshold levels be increased to \$2,500, the State/Local Consistency group suggests that the level should be set after study to determine the appropriate level.

Rationale:

When bringing state and local campaign finance thresholds into alignment, factors that need to be considered include: (1) the significant interest that local jurisdictions have in regulating their elections (including the right of charter cities and counties to govern their own elections); and (2) the wide variation among local jurisdictions in size of elections, contributions and spending, which makes a “one size fits all” approach to regulation neither realistic nor practical.

We support the Campaign Finance Threshold group’s recommendations relating to changes in thresholds listed above. Since local elections usually involve lower levels of overall spending and contributions, raising the late reporting threshold to the \$2,500 state threshold for IE expenditures and contribution reports would mean that much local activity could go unreported in the days before an election. Keeping those local thresholds at the \$1,000 level recognizes that reality.

The State/Local Consistency group supports the idea of an increase in the recipient committee and independent expenditure committee qualification thresholds from the current \$1,000. We believe the appropriate level should be set after study to determine a threshold that would account for inflation since the last increase but not miss meaningful levels of activity at the local level. If, for instance, it appears that significant campaign activities such as slate mailers really begin to be seen around the \$2,000 level, \$2,500 qualification thresholds might be too low to capture them.

4. Consider methods to accomplish consistency between definitional terms used in PRA and local jurisdictions’ campaign finance.

Recommendation: Collaborate with local Ethics Commissions or similar local government bodies to determine which areas of the law need to be changed to reach greater consistency and to examine whether purposes of the title may need amendment to reflect current issues affecting local jurisdictions.

Rationale:

- There needs to be greater discussion of what areas of law need to be changed to reach greater consistency.
- Consistency and uniformity are good, but public disclosure of information uniquely affecting local jurisdiction is also important.
- To the extent that there is complexity in campaign reporting, the ability of local jurisdictions to comply should be considered.
- A finding and a purpose to deal with issues affecting local jurisdictions may be needed.

- Sections 81013 and 81009.5 permit local jurisdictions to require “additional” information, but where standards/definitions are different or stricter, it is unclear how much local jurisdictions may regulate